

REMARKS

Claims 1-54 are pending. Claims 2, 9, 12, 14, 17, 20 and 31 have been amended, and claims 36-54 have been newly added. Reconsideration is respectfully requested.

1. Objection to Claims 3-5 and 21-23

Claims 3-5 and 21-23 were objected to because they contain the phrase “and the at least”. However, claims 2 and 20, from which the objected claims depend, recite “at least one aperture...”. Therefore, subsequent recitations to this element should be “the at least one aperture....”. Thus, Applicants respectfully submit this claim language is proper.

2. Rejection of Claims 1, 6-11, 13-16, 18-19, 24-30 and 32 Under § 102(e)

Claims 1, 6-11, 13-16, 18-19, 24-30 and 32 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,431,390 (Waller).

Claim 1 recites a lid having a regulator valve formed under a drinking opening, where the regulator valve includes:

“a first sidewall structure downwardly depending from the lid adjacent the drinking opening and terminating in a first bottom wall, and

a plurality of apertures formed in at least one of the first sidewall structure and the first bottom wall, *wherein any of the plurality of apertures formed in the first sidewall structure are positioned in an opposing manner.*”

While Waller does teach drinking openings 20 formed in the side of the groove 60, such drinking openings are formed only on a single sidewall of the groove 60, not formed in a sidewall structure and positioned in an opposing manner, as recited in claim 1.

The Examiner states on page 3 of the Office Action that “opposing” reads on the openings of Waller “as the openings are disposed along a curved surface, therefore, they oppose each other.” The Applicants respectfully traverse this conclusion. First, the Examiner’s interpretation of this claim language is inconsistent with the plain meaning of the term “opposing”. The root of “opposing” is “oppose”, which is defined as “To place so as to be opposite something else”, and “opposite” is defined as “Placed or located directly across from

something else or from each other.” (*The American Heritage Dictionary of the English Language*, Fourth Edition, 2000 -- copy attached). Thus, using the plain meaning of the term “opposing”, merely forming openings next to each other on a curved surface does not result in them opposing each other. Moreover, it is clear from Fig. 1 of Waller that openings 20 are not placed or located directly across from each other. Second, forming openings 20 on a curved surface of groove 60 does not serve the function of opposing apertures, as stated on page 8, lines 6-8 of the specification:

“Where the apertures are formed in the sidewalls, it is preferably to form pairs of the apertures opposing one another so that any wave incident upon one aperture would not be incident upon another aperture formed on the opposing side of the sidewall.”

In contrast, a wave incident on one of the Waller openings 20 would be incident on all of the Waller openings 20. Therefore, because the structure and function of the claimed opposing apertures are different from openings 20 of Waller, the Applicants respectfully submit that claim 1 is not anticipated by this reference.

Claims 6-11 and 13 depend from claim 1, and are considered allowable for the reasons set forth above. Further, claim 9, as amended, recites that the first sidewall structure (of the regulator valve) includes a first portion facing toward a center of the top wall and toward the wave-breaker recess, and a second portion facing away from the center of the top wall and away from the wave-breaker recess. In contrast, the portion of groove 60 that faces toward the center of the lid top wall faces *away* from barrier 54, not *toward* it as now claimed. Likewise, the portion of groove 60 that faces away from the center of the top wall faces *toward* barrier 54, not *away* from it as now claimed.

Claim 14, as amended, recites a wave-breaker recess formed in the top wall having a sidewall that extends downwardly, “wherein the wave-breaker recess sidewall includes a first portion facing toward the drinking opening and a second portion facing away from the drinking opening, and wherein the recess sidewall second portion *extends across a center portion of the top wall* and is non-linear for reflecting waves of the liquid away from the drinking opening.” In contrast, the wall of barrier 54 facing away from the drinking opening is adjacent the edge of the top wall, not extending across a center portion of the top wall as recited in amended claim 14.

Therefore, it is submitted that amended claim 14 (and claims 15-16, 18-19, 24-27 dependent thereon) are allowable over Waller.

Claim 28 recites that the apertures formed in the sidewall structure of the regulator valve are positioned in an *opposing manner*. For the reasons set forth above with respect to claim 1 (i.e. apertures formed next to each other on a curved surface are not positioned in “an opposing manner”), it is respectfully submitted that Waller fails to teach or suggest such an aperture configuration, and that claim 28 (and claims 29-30 and 32 dependent thereon) are not anticipated by this reference.

### **3. Rejection of Claims 14-16 Under § 102(b)**

Claims 14-16 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,589,569 (Clements).

Claim 14, as amended, recites a wave-breaker recess formed in the top wall having a sidewall that extends downwardly, “wherein the wave-breaker recess sidewall includes a first portion facing toward the drinking opening and a second portion facing away from the drinking opening, and wherein the recess sidewall second portion *extends across a center portion of the top wall* and is non-linear for reflecting waves of the liquid away from the drinking opening.” In contrast, wall portion 42 of Clements identified by the Examiner as corresponding to the claimed recess sidewall second portion is adjacent the edge of the top wall, not extending across a center portion of the top wall as recited in amended claim 14. Therefore, it is submitted that amended claim 14 (and claims 15-16 dependent thereon) are allowable over Clements.

### **4. Rejection of Claims 1, 6-8 and 28 Under § 102(b)**

Claims 1, 6-8 and 28 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,619,372 (McFarland).

Claims 1 and 28 recite that the apertures formed in the sidewall structure of the regulator valve are positioned in an *opposing manner*. For the reasons set forth above in Part 2 with respect to claim 1 (i.e. apertures formed next to each other on a curved surface are not positioned in “an opposing manner”), it is respectfully submitted McFarland fails to teach or suggest such

an aperture configuration, and that claims 1 and 28 (and claims 6-8 dependent on claim 1) are not anticipated by this reference.

**5. Rejection of Claims 1, 6-11, 13-16, 18-19, 24-30 and 32 Under § 103(a)**

Claims 1, 6-11, 13-16, 18-19, 24-30 and 32 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Clements in view of Waller.

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974); MPEP 2143.03. It is respectfully submitted that the combination of Clements and Waller fail to teach all the limitations of the rejected claims.

Regarding claims 1 and 28, neither Clements or Waller teach or suggest forming apertures in the sidewall structure of the regulator valve that are positioned in an *opposing manner* (as explained in Part 2 above with respect to claim 1).

Regarding claim 14, neither Clements or Waller teach or suggest a wave-breaker recess sidewall second portion facing away from the drinking opening, extending *across a center portion of the top wall*, and being non-linear for reflecting waves of the liquid away from the drinking opening (as explained in Part 2 above with respect to claim 14).

Therefore, it is respectfully submitted that claims 1, 14 and 28, along with claims 6-11, 13, 15-16, 18-19, 24-27, 29-30 and 32 dependent thereon, are not rendered obvious by Clements in view of Waller.

**6. Allowable Subject Matter**

The Applicants gratefully acknowledge the allowance of claims 33-35, and the indication that claims 2-5, 12, 17, 20-23 and 31 would be allowable if rewritten into independent form.

Claims 2, 12, 17, 20 and 31 have been amended into independent form, including all the limitations of the base claim and any intervening claims, and thus the scope of the these claims remains precisely the same as originally filed.

**7. Newly Added Claims**

Claims 36-54 have been newly added. It is submitted these claims are allowable over the references relied upon by the Examiner, and that no new matter has been added. Specifically, new independent claim 36 corresponds to original claim 2 in independent form, but with a first aperture formed in the first sidewall structure or the first bottom wall, and a second aperture formed in the second bottom wall and or second sidewall structure. New independent claim 46 corresponds to original claim 14, but with the recess sidewall first portion also being disposed between a center of the top wall and the drinking opening, and with the recess sidewall second portion also extending downwardly below the periphery at least as far as the annular recess. New independent claim 50 corresponds to original claim 14, but with the wave-breaker recess sidewall terminating in a planar bottom wall, and with the recess sidewall first portion being disposed between a center of the top wall and the drinking opening.

It is respectfully submitted that the prior art references relied upon by the Examiner fail to teach or suggest these features as claimed.

For the foregoing reasons, it is respectfully submitted that the claims are in an allowable form, and action to that end is respectfully requested.

Respectfully submitted,

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